

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

FILED
CLERK

7/15/2020 3:00 pm

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DWAYNE J. SCOTT and DERREL J. MEYNARD,
individually and on behalf of all others similarly
situated,

U.S. DISTRICT COURT
EASTERN DISTRICT OF NEW YORK
LONG ISLAND OFFICE

Plaintiffs,

ORDER

18-CV-0086 (SJF)(AKT)

- against-

WHOLE FOODS MARKET GROUP INC.,

Defendant.

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FEUERSTEIN, District Judge:

Before the Court is a *sua sponte* Report and Recommendation (“the Report”) of the Honorable A. Kathleen Tomlinson, United States Magistrate, dated May 12, 2020, (1) recommending that the claims of *pro se* plaintiff Dwayne J. Scott (“Scott”) be dismissed for failure to prosecute and failure to comply with Court orders and (2) advising *inter alia*, (a) that “the parties shall have fourteen (14) days from service of this Report and Recommendation to file written objections” and (b) that “[f]ailure to file objections will result in a waiver of those objections for purposes of appeal.” Report at 1-2, Docket Entry [65]. A copy of the Report was served upon counsel for all parties via ECF on May 12, 2020, and upon Scott on June 23, 2020. *See* Docket Entry [72]. Despite such service, no objections have been filed, nor has any party sought an extension to do so. For the following reasons, Magistrate Judge Tomlinson’s Report is adopted in its entirety.

The Court is not required to review the factual findings or legal conclusions of the magistrate judge as to which no proper objections are interposed. *See Thomas v. Arn*, 474 U.S. 140, 150, 106 S. Ct. 466, 88 L. Ed. 2d 435 (1985). To accept the magistrate’s report and recommendation absent a timely objection, the court need only be satisfied that there is no clear error on the face of the record. *See Baptichon v. Nevada State Bank*, 304 F. Supp. 2d 451, 453

(E.D.N.Y. 2004), *aff'd*, 125 F. App'x 374 (2d Cir. 2005). Whether or not proper objections have been filed, the district judge may, after review, accept, reject, or modify any of the magistrate judge's findings or recommendations. 28 U.S.C. § 636(b)(1); FED. R. CIV. P. 72(b).

No party has filed objections to the Report within the time prescribed in 28 U.S.C. §636(b)(1)(C), nor has any party sought an extension of the deadline. After a careful review of the Report, the Court finds no plain error in either the reasoning or the conclusions reached therein, and accordingly, adopts it in its entirety.

Plaintiff Dwayne J. Scott's claims are dismissed; the Clerk of the Court is directed to terminate him from this action. The caption of the matter is modified as follows:

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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DERREL J. MEYNARD, individually and on
behalf of all others similarly situated,

Plaintiff,

18-CV-0086 (SJF)(AKT)

- against-

WHOLE FOODS MARKET GROUP INC.,

Defendant.

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SO ORDERED.

/s/ Sandra J. Feuerstein

Sandra J. Feuerstein
United States District Judge

Dated: Central Islip, New York
July 15, 2020